

REMARKS/ARGUMENTS

The Office Action dated July 10, 2008 has been carefully reviewed. Reconsideration of the objections and rejections contained therein is respectfully requested in view of the following remarks. Claims 1-21 are pending in the application. Claims 1, 4, 8, 10, 14, and 18 are independent claims. No claims are amended and no claims are canceled in the above listing of claims.

35 U.S.C. § 102 & 103 Rejections

Claims 1-6 and 8-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,337,983 to Bonta et al. (hereinafter "Bonta"). Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonta in view of U.S. Patent No. 6,633,554 to Dalal et al. (hereinafter "Dalal"). Applicant respectfully traverses each of these rejections for at least the following reasons.

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

The Examiner acknowledges that the normal PSMM and rescue PSMM messages are different. However, the Examiner states that "the rescue PSMM may have additional information as Applicant interpreted and power increment, this description is not different than the claim subject matter." *Final Office Action* at pg. 2. The Examiner appears to be arguing that although the rescue PSMM includes additional information, the rescue PSMM still includes all of the information from the original, normal PSMM message. Accordingly, the Examiner seems to conclude that transmitting of the rescue PSMM message would inherently include transmitting

the normal PSMM message. However, Applicant submits that this is not the case because the rescue PSMM at the very least does not include the pilot channel signal strength measurements of the normal PSMM.

Bonta explicitly defines the rescue (emergency) PSMM in col. 3, lines 11-16:

The rescue procedure is enhanced by initially attempting the transmission at maximum power an unacknowledged message from the mobile containing the current pilot channel signal strengths measured from the strongest n cells (subsequently this message will be referred to as an emergency PSMM)." (Emphasis added; see col. 3, lines 11-16).

In Bonta, during normal operation, a mobile transmits a normal PSMM to its serving base station indicating pilot channel signal strengths of the base stations in its active set (i.e., the serving base station alone) to assist in power management, etc. Occasionally, channel conditions deteriorate to a point where a rescue operation may be needed. To determine whether to initiate a rescue operation, the mobile waits for 12 consecutive bad frames to be received (step 602), turns off its transmitter and starts a fade timer as well as a rescue delay timer (step 603), waits for an additional 2 bad frames to be received (step 604), waits for the expiration of the rescue delay timer (step 605), and then starts a rescue allowed timer (step 607) to initiate the rescue operation. If eligible neighboring base stations are identified during the rescue operation, the mobile promotes one or more of the neighboring base stations to the mobile's active set (step 630). Subsequently, the mobile transmits a rescue PSMM message (step 632) indicating the current pilot strength measurements of the strongest n cells.

Because of the deteriorating channel conditions and the amount of time between transmissions of the normal PSMM and rescue PSMM messages (i.e., at least the time required for the reception of 12 consecutive bad frames, the starting of the fade and rescue delay timers, the reception of another 2 bad frames, the expiration of the rescue delay timer, etc.), the

"current" pilot strength measurements are clearly intended to be new measurements to make the rescue PSMM message as up to date and useful as possible for the rescue procedure.

Even if the normal PSMM and rescue PSMM messages were transmitted closer together in time, the fact that new measurements are necessarily performed for the newly added pilot signals of the neighboring cells reinforces the idea that new measurements are made for the serving base station as well. In order to determine which cells are the strongest, "current" measurements must be made, and it is these "current" measurements that are actually transmitted. Clearly, it does not seem likely that the mobile station will measure only the newly added rescue cells when making such comparisons, nor would it make sense to rely on the outdated measurements regarding the serving base station contained in the last sent normal PSMM message (much less retransmit that redundant information in the rescue PSMM) – if the serving base station's pilot signal strength had not changed, the mobile probably would not be attempting a rescue operation in the first place.

Furthermore, there is no guarantee that the serving base station, whose pilot strength measurement was included in the normal PSMM, will be among the "strongest n cells" whose pilot strength measurements are included in the rescue PSMM – especially given that the rescue procedure was initiated only because of poor channel conditions with the serving base station.

For at least such reasons, the "current" measurements of the rescue PSMM message in Bonta would not be the same measurements that the mobile attempted to transmit in the previous, normal PSMM message. Accordingly, Applicant submits that the rescue PSMM does not include the same pilot channel signal strength measurements as the normal PSMM. Therefore, the rescue PSMM does not include all of the information of the original, normal PSMM message as alleged by the Examiner, and cannot be used to read on a second instance of "transmitting the pilot strength measurement message" as in the claimed invention.

35 U.S.C. § 102 Rejection of Claims 10-21

Independent claims 10, 14, and 18 recite similar features to independent claim 1. Independent claims 10, 14, and 18 are therefore believed allowable over Bonta for at least the reasons presented above, as well as the reasons presented in the responses of January 22, 2008 and June 11, 2008, with regard to claim 1. The remaining dependent claims 11-13, 15-17, and 19-21 are believed allowable over Bonta for at least their dependence from an allowable base claim. Accordingly, Applicant respectfully requests that the Examiner withdraw this 35 U.S.C. § 102(e) rejection of claims 10-21.

SUMMARY

Since the Examiner has maintained his rejection of claims 1-9 under 35 U.S.C. § 102 and 103 as noted above, and has extended the rejection to include claims 10-21, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the January 22, 2008 and June 11, 2008 responses without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant's responses of January 22, 2008 and June 11, 2008, it is respectfully submitted that claims 1-21 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims are believed to recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

CONCLUSION

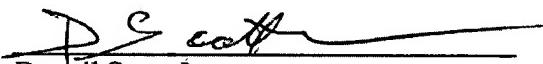
In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 10/10/08

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